

**KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.**

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3215  

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(202) 326-7900  
FACSIMILE:  
(202) 326-7999

October 23, 2014

***Via ECF and Hand Delivery***

Hon. Lewis A. Kaplan  
500 Pearl Street  
New York, NY 10007

Re: *In re BNYM Corp. Foreign Exchange Transactions Litigation*, No. 12 MD 2335

Dear Judge Kaplan:

Pursuant to Your Honor's Individual Rules of Practice ("Individual Practices"), The Bank of New York Mellon ("BNYM") respectfully seeks leave to file the enclosed eight-page Motion for Clarification and Partial Reconsideration of this Court's October 9 order (Dkt. No. 502, the "Order") limiting BNYM's third-party discovery. Although BNYM recognizes that the Individual Practices normally limit discovery motions to four pages, BNYM believes that a longer submission is warranted in these unusual circumstances. The Order concerns nineteen different depositions, all of which raise unique evidentiary issues and implicate different facets of the roughly twenty legal claims that BNYM is facing. It is not possible to address them intelligibly in four pages. BNYM submits that an eight-page brief is appropriate in light of the complexity of the issues; of the importance of the discovery at stake; and of the fact that the Motion addresses two discrete (but related) issues of clarification and reconsideration, each of which could consume an ordinary four-page brief. BNYM has worked hard to make its submission as concise as possible while still being helpful to the Court. Plaintiffs have requested that we state that they take no position on the page count of BNYM's motion.

BNYM has also attached exhibits to its motion, but in doing so recognizes that this Court usually declines to accept evidence on reconsideration. As explained in the motion (at 5 & n.8), BNYM believes the special circumstances of this case justify an exception to that usual practice.

Consistent with the Individual Practices and the Protective Order (Dkt. No. 104) entered in this action, BNYM is filing this letter and a redacted version of the motion on ECF. It is also filing an unredacted version of the motion and exhibits under seal. Enclosed with this letter are two courtesy copies of each.

Sincerely,

/s/ Reid M. Figel

Reid M. Figel

Enclosures

